

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RED BARN MOTORS, INC.,)	
DONALD B. RICHARDSON,)	
BARBARA A. RICHARDSON,)	
)	
Plaintiffs,)	No. 1:14-cv-01589-TWP-DKL
)	
vs.)	
)	
NEXTGEAR CAPITAL, INC.,)	
LOUISIANA'S FIRST CHOICE AUTO)	
AUCTION, L.L.C.,)	
)	
Defendants.)	

ORDER SETTING SETTLEMENT CONFERENCE

This matter is scheduled for a settlement conference on **MONDAY, JANUARY 25, 2016, AT 1:30 P.M., EASTERN**, in Room 255, United States Courthouse, 46 East Ohio Street, Indianapolis, Indiana, before Magistrate Judge Denise K. LaRue. **All persons entering the United States Courthouse must have photo identification. If this presents a problem, please contact Ruth Olive at (317) 229-3930 at least one (1) day before the conference.**

1. Attendance of the Parties Required

Unless excused by order of the court, clients or client representatives with complete authority to negotiate and communicate a settlement shall attend the settlement conference along with their counsel. This requires the presence of each party, or the authorized representative of each corporate, governmental, or other

organizational entity. Any insurance company that is a party, or is contractually required to defend or indemnify any party, in whole or in part, must have a fully authorized settlement representative present at the conference. That representative must have final settlement authority to commit the company to pay, in the representative's own discretion, the amount within the policy limits, or up to the plaintiff's last demand, whichever is lower. The purpose of this requirement is to have in attendance a representative who has the authority to exercise discretion to settle the case during the settlement conference without consulting someone else who is not present.

No other persons are permitted to attend the settlement conference without leave of court.

On or before five (5) business days before the settlement conference, the parties shall submit (not file) a confidential settlement statement setting forth a brief statement of: (1) relevant facts, including any key facts that the party believes are admitted or in dispute; (2) damages, including any applicable back pay, mitigation, compensatory and/or punitive damages, or any other special damages; (3) the existence of any applicable liens; (4) any pending or anticipated dispositive or other substantive motions and citation to controlling precedent in support of their respective legal positions; (5) a discussion of the strengths and weaknesses of the case; and (6) the parties' position on settlement, including a recitation of settlement efforts to date. If not already part of the court file, copies of those certain portions of any relevant agreements, business records, photographs or other documents shall be submitted with the settlement statement. The confidential settlement statement should not be lengthy, but should contain enough

information to be useful to the Judge in analyzing the factual and legal issues in the case. The parties are encouraged to be candid in their confidential statements. Confidential settlement statements should be submitted via email to MJLarue@insd.uscourts.gov.

2. Pre-Settlement Conference Demand and Offer

A settlement conference is more likely productive if, before the conference, the parties have had a written exchange of their settlement proposals. Accordingly, no later than fifteen (15) business days before the settlement conference, Plaintiff(s) shall serve a settlement demand on Defendant(s), who shall serve a response no later than seven (7) business days before the settlement conference. The parties shall submit (not file) courtesy copies of their respective demand and response at the time of service. These should be emailed to the magistrate judge at MJLarue@insd.uscourts.gov. There is no need to follow an email with a hard copy.

The parties are instructed to prepare and submit (not file) a draft settlement agreement, noting any disagreement by the parties. **The draft settlement agreement shall be emailed to the magistrate judge in Word or Wordperfect format at MJLarue@insd.uscourts.gov no later than three (3) business days before the settlement conference.**

If there are any liens (or potential liens) upon Plaintiff's potential recovery, Plaintiff's counsel shall fully inform themselves of the nature and amount of all such liens and shall undertake to negotiate a resolution of such lien in advance of the settlement conference, and, if necessary, shall make arrangements to be in telephonic

communication with any such lienholder during the course of the settlement conference for the purpose of negotiating a final resolution of any lien.

3. Settlement Format

The Court will generally use a format of opening presentation followed by a joint discussion and private caucusing by the Court with each side. The Court expects both the lawyers and the party representatives to be fully prepared to participate. The Court encourages all parties to keep an open mind in re-assessing their previous positions and to find creative means for resolving the dispute.

4. Statements Inadmissible

Statements made by any party during the settlement conference are not to be used in discovery and will not be admissible at trial. Parties are encouraged to be frank and open in their discussions. The Court expects the participants to address each other with courtesy and respect.

5. Issues to be Discussed at Settlement Conference

Parties should be prepared to discuss the following at the settlement conference:

- a. What are your objectives in the litigation?
- b. What issues (in and outside of this lawsuit) need to be resolved? What are the strengths and weaknesses of your case?
- c. Do you understand the opposing side's view of the case? What is wrong with their perception? What is right with their perception?
- d. What are the points of agreement and disagreement between the parties? Factual? Legal?
- e. What are the impediments to settlement?
- f. What remedies are available through litigation or otherwise?
- g. Are there possibilities for a creative resolution of the dispute?

- h. Do you have adequate information to discuss settlement? If not, how will you obtain sufficient information to make a meaningful settlement discussion possible?
- i. What amount of attorney fees and costs has been incurred to date and are likely to be incurred with the continued litigation of this matter?

6. Involvement of Clients

For many clients, this will be the first time they have participated in a court supervised settlement conference. Therefore, counsel shall provide their clients with a copy of this Order and shall discuss with them the points contained herein prior to the settlement conference.

7. Continuances

A request to vacate or continue the settlement conference must be made by motion filed with the court **no later than two weeks** prior to the conference, except in exigent circumstances. These motions will be granted only for good cause.

Failure to comply with any of the provisions in this Order may result in sanctions.

SO ORDERED this 10/09/2015



Denise K. LaRue
United States Magistrate Judge
Southern District of Indiana

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